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*Governor*



**KARYN POLITO**  
*Lt. Governor*

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**Baker-Polito Administration Proposes Modernizing the Laws that Govern Explicit Images**

*Legislation will protect children, provide more tools for District Attorneys, and update state law*

**BOSTON** – Today, the Baker-Polito Administration filed legislation modernizing the laws governing the distribution of sexually explicit images and empowering District Attorneys with additional tools to protect children. Governor Charlie Baker and Lieutenant Governor Karyn Polito announced the filing of *An Act Relative to the Harmful Distribution of Sexually Explicit Visual Material* alongside District Attorneys, Police Chiefs, members of District Attorney Conley's Youth Advisory Council, local legislators, and other key stakeholders from across the Commonwealth at Boston Latin Academy in Dorchester.

"As parents, Lieutenant Governor Polito and I are pleased to propose legislation to better protect the Commonwealth's children and will seek to educate them on the dangers associated with sharing explicit images," **said Governor Baker**. "We look forward to working with the Legislature to pass this bill in a timely fashion, so that Massachusetts can join several other states in recognizing the need to update our laws consistent with modern technology to best protect our most vulnerable."

"From the flexibility District Attorneys will now possess for educating minors, to the updates school districts will make to their cyber-bullying policies, this proposed legislation makes Massachusetts a better and safer state," **said Lt. Governor Polito, Chair of the Governor's Council to Address Sexual Assault and Domestic Violence**. "We look forward to working with our colleagues in the Legislature, District Attorneys, and the Governor's Council to Address Sexual Assault and Domestic Violence to update state law concerning sexual explicit images."

Under the legislation filed today, the first step in an explicit images case involving minors will be to enroll in an educational diversion program rather than go through the juvenile justice process and potentially be committed to the Department of Youth Services. While District Attorneys and the Attorney General will still have the right to bypass educational diversion programs in certain instances, the focus will now be on educational diversion rather than legal punishment.

“This is a very serious issue that causes emotional distress, humiliation, and has the potential to destroy people’s lives,” **said Dan Bennett, Secretary of Public Safety and Security.** “Through the collaborative efforts of the Lt. Governor and members of the SADV council, the Administration has crafted a bill that would create new pathways for protecting the Commonwealth’s children and offer sensible alternatives to involvement in the juvenile justice system.”

Massachusetts law as currently written, calls for minors who engage in peer to peer distribution of sexually explicit visual material to be subject to prosecution for the distribution or possession of child pornography. This legislation seeks to update the law consistent with our lives and 21st Century technology. Should a case proceed to the juvenile justice system, this bill affords District Attorneys the discretion to decide whether a minor should be charged with a misdemeanor rather than a felony. The flexibility provided under this law will help ensure minors that do not belong in the juvenile justice system do not wind up there.

“All too often, technology outpaces the law’s ability to protect individuals and address harmful behavior. This is a smart, balanced bill that creates more appropriate and measured options ,” **said Suffolk County District Attorney Dan Conley.** “Right now, prosecutors reviewing juvenile sexting cases usually find themselves with the poor choice of pursuing either extremely serious charges or no charges at all. Victims of surreptitious recordings and revenge porn could find the evidence in their cases made part of the public record. This legislation provides meaningful, proportionate, and age-appropriate responses to emerging offenses, including an educational diversion option for most juveniles. It also improves confidentiality assurances for victims and maintains constitutional protections for free speech. I want to thank Governor Baker and his team for working so closely with us to develop this bill and help bring Massachusetts law into the 21<sup>st</sup> century.”

"This legislation addresses juvenile sexting in a smart and progressive way," **said Northwestern District Attorney David Sullivan**

The legislation filed by the Baker-Polito Administration today will also require schools to provide age-appropriate education on the risks and harmful effects of the creation, possession, and distribution of sexually explicit visual depictions of minors as they relate to cyber-bullying. Schools will be given the autonomy to use their existing cyber-bullying policies as a framework to incorporate education for their students on the harmful effects of distributing explicit images and any bullying associated with it.

"I am honored to join the Governor and Lieutenant Governor on this legislation which will protect kids from the harmful effects from transmission of explicit images," **said Representative Jeffrey N. Roy (D-Franklin)**. "Earlier in the session, I filed similar legislation which provides additional tools for law enforcement along with educational programming that brings a coordinated effort and holistic approach to address an increasingly prevalent behavior among teens. I look forward to partnering with the Lieutenant Governor in the effort to get both bills enacted in this session."

This proposal also seeks to close a loophole under current law by creating penalties for adults who distribute a sexually explicit image for purposes of revenge or embarrassment. While current law addresses non-consensual recording of an unsuspecting person, it does not address instances where someone distributes an image without consent regardless of whether the initial image may have been taken with consent. This legislation closes the gap in our law by creating a new felony offense and empowering judges in criminal proceedings to ensure an explicit image in question is permanently destroyed.

If passed, Massachusetts will join states from over half the country that have enacted similar legislation to protect their citizens.

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